

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CITY OF NEW YORK

Plaintiff,

-against-

NOT FOR PUBLICATION
MEMORANDUM & ORDER
19-CV-05693 (CBA)(RER)

ARTISAN VAPOR FRANCHISE LLC, et al.,

Defendants.

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AMON, United States District Judge:

Plaintiff City of New York (“the City”) brought this action against Defendants, sellers of electronic cigarettes and associated products, for violations of NYC Administrative Code § 17-706(a-1) and the common law of public nuisance. (See ECF Docket Entry (“D.E.”) # 1.) The City alleged that Defendants failed to use age-verification systems to properly prevent underage sales of such products and marketed their products specifically to underage users. (See id.) Defendant Vaping Watch Inc failed to answer or otherwise defend the action, and, on February 4, 2020, the Clerk of Court entered default against it. (D.E. # 83.) On February 25, 2020, the City moved for a default judgment against Vaping Watch Inc. (D.E. # 99.) On February 26, 2020, the Court referred to the motion for default judgment to the Honorable Ramon E. Reyes, Jr., United States Magistrate Judge, for Report & Recommendation, (see D.E. dated February 26, 2020). On November 2, 2020, Judge Reyes issued a thorough and well-reasoned Report and Recommendation, (D.E. # 121 (“the R&R”)), recommending that the Court grant the City’s motion for default judgment and enter the City’s proposed judgment, with certain alterations, (see R&R at 9).

No party has objected to the R&R, and the time for doing so has passed. When deciding whether to adopt an R&R, a district court “may accept, reject, or modify, in whole or in part, the

findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the R&R to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted).

The Court has reviewed the record and, finding no clear error, adopts the R&R. Accordingly, the Court grants the City’s motion for default judgment against Vaping Watch Inc and enters its proposed judgment, as altered by Judge Reyes’s recommendation in the R&R. The Clerk of Court is respectfully directed to enter judgment accordingly.

SO ORDERED.

Dated: November 23, 2020
Brooklyn, New York

/s/ Carol Bagley Amon
Carol Bagley Amon
United States District Judge